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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/510,747	02/22/2000	Huey Ly	10992824-1	3079

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EXAMINER

WOOD, WILLIAM H

ART UNIT PAPER NUMBER

2124

DATE MAILED: 10/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/510,747

Applicant(s)

LY, HUEY

Examiner

William H. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 03 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-21 is/are pending in the application.
- 4a) Of the above claim(s) 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1-7 and 9-21 have been examined.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 9-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Muller, "Focus On OpenView: A Guide to Hewlett-Packard's Network and Systems Management Platform". The previous rejection arguments are maintained with the addition of the following rejection arguments in response to applicant's amendments..

In regard to claim 1, Muller disclosed the additional limitations:

- i) installing itself on the managed computer (page 69, agent is on managed node and therefore has installed itself)
- ii) making updates to the specified applications when new versions of the specified applications are available on the managing computer (page 180)

In regard to claim 5, Muller disclosed the limitation *monitoring communications form the managing computer to determine when the managing computer desires the agent to take a requested action* (page 69, fifth bullet).

In regard to claim 11, Muller disclosed the limitations:

- i) *an action sensor that monitors communications from the managing computer to determine when the managing computer desires the agent to take a requested action* (page 69, fifth bullet)
- ii) making updates to the specified applications when new versions of the specified applications are available on the managing computer (page 180)

In regard to claim 16, Muller disclosed this limitation as previously indicated. The independent claim has changed, but the previous rejection and the current rejection include similar limitations and therefore are rejected similarly now.

In regard to claim 17, the additional limitations are the same as for claim 11, which was rejected with Muller. The rejection here is the same as for claim 11.

In regard to claim 21, Muller disclosed the limitations of this claim. It is noted that the limitations are all found in claim 1 and therefore the rejection of those limitations is the same here.

Remarks

3. Examiner has considered Applicant's arguments with regard to the 35 U.S.C. § 102 rejection of amended claims 1-20 and has found them to not be persuasive.

Applicant's arguments are ^{a)} the claimed invention has an agent that can install itself and the cited art does not, ^{b)} the claimed invention has an agent that monitors the

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network in order to determine the best time to transfer data and the cited art does not, and ^{c)} the agent maintains specified applications by making updates and the cited art does not. These arguments are incorrect in view of applicants disclosed and claimed invention and the cited prior art. First, just like applicant's claimed invention, Muller transfers an agent to a managed computer (page 69, Software Components Section; first, second and third paragraphs), in doing so the agent installs itself. The mention of what a servers duties are in the second bulleted item on page 69, is nothing more than indicating that the server is responsible for initiating the sending of the agent (transferring it). The physical installation is still left the agent, which is clearly indicated as a self-sufficient entity capable of execution. Second, Muller's agent has been proven to monitor the network (as shown in previous action) in order to determine the best time to transfer data. *To determine a best time to transfer data* is performed by the agent through the use of the central managing software. Third, Muller disclosed an agent for the use in maintaining specified applications by making updates. Muller demonstrated that it was known at the time of invention to utilize agents to perform a variety of automated tasks remotely (page 69; maintaining). Also, Muller disclosed a system of updating software from a central source (pages 179-182). It is clear to implement Muller's agents with the ability to update software as found in Muller's teaching. This would allow one to produce a system, which could perform more automated functions and thus make managing a network easier for the operator (automation is the primary task of an agent). One of the reasons for OpenView, the software discussed by Muller, is to maintain and update software on a managed computer with the use of agents.

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These three arguments represent the sum of applicants concerns regarding the rejections of claims 1-20. The cited prior art overcomes the limitations of the amended claims.

4. Examiner has considered the additional claim 21 and rejected as appropriate based on the cited prior art above.

5. Examiner has withdrawn the 35 U.S.C. § 112 Rejection of claims 5-8 and 11-20.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (703)305-3305. The examiner can normally be reached 7:30am - 5:00pm Monday thru Thursday and 7:30am - 4:00pm every other Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703)305-9662. The fax phone numbers for the organization where this application or proceeding is assigned are (703)746-7239 for regular communications and (703)746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

William H. Wood
September 30, 2002



TUAN Q. DAM
PRIMARY EXAMINER